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In re Application of
Kiesel, et al.
Application No. 10/646,402
Filed: August 22, 2003
Attorney Docket No. 1140668-0015 CON

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: **DECISION ON PETITION**
: **UNDER 37 CFR 1.78(a)(3)**
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This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 22, 2004 (certificate of mailing date March 17, 2004), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed nonprovisional applications that are identified in the present petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or

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Any questions concerning this matter may be directed to Petitions Attorney E. Shirene Willis at (571) 272-3230.

A handwritten signature in cursive script that reads "Frances Hicks". The signature is written in black ink and is positioned above the printed name.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy